

REMARKS

In the Office Action dated May 19, 2006, claims 1-83 were examined with the result that claims 43-45 and 47-52 were allowed, claim 58 was objected to, and claims 1-3, 5-17, 19-31, 32-42, 53-57, 59, 60 and 62-83 were all rejected. The Examiner made the rejection final. In response, applicant has filed a Request for Continuing Examination and the present Amendment wherein claims 1, 15, 29, 43, 53, 72, 75, 78 and 81 have been amended. In view of the above amendments and following remarks, reconsideration of this application is requested.

In paragraph 2 of the Office Action, the Examiner noted a minor informality in several of applicant's claims which the Examiner believed could result in some ambiguity. The Examiner recommended that in claims 1, 15, 29, 43 and 53 the phrase "comprised of" be changed to "comprising" to follow more conventional patent draftsmanship. Accordingly, applicant has revised claims 1, 15, 29, 43 and 53 as suggested by the Examiner.

In paragraph 3 of the Office Action, the Examiner rejected claims 1-3, 5-17, 19-31, 33-42, 53-57, 59, 60 and 62-83 under 35 USC §103(a) as being unpatentable over McCarthy et al US 4,804,573 for reasons of record as set forth in the Office Action dated October 4, 2005. In addition, the Examiner made three further observations. First, the Examiner responded to applicant's arguments relating to the McCarthy et al reference being directed toward a different technological problem. Second, the Examiner responded to the applicant's arguments regarding the lack of disclosure and/or teaching having to do with seal deadening in McCarthy et al. Finally, the Examiner noted that McCarthy et al mentions drying the cold seal adhesive composition.

With regard to the Examiner's comments that the McCarthy et al reference is also directed to a packaging material having a water based coal seal cohesive coating thereon, applicant agrees with the Examiner that McCarthy et al is a material reference to patentability of applicant's claims since it is directed toward a flexible packaging material for food stuffs, just as applicant's invention is also directed toward a flexible package for

containing articles such as food stuffs. However, just because McCarthy et al is a material and relevant reference, does not mean that it teaches and/or suggests applicant's claimed invention. As the Examiner recognizes, a reference is good for all that it teaches and/or suggests. However, McCarthy et al is essentially directed toward the use of an overprint varnish to prevent damage to printed matter on the front face of the flexible packaging material and to the fact that this overprint varnish prevents the two faces of the packaging material from blocking, i.e. adhering together when wound on a reel. The overprint varnish allows release of the rear face of the flexible packaging material bearing the cold seal adhesive without blocking. In contrast, applicant's invention is the use of a cold seal adhesive containing a non-self crosslinking acrylic emulsion which minimizes seal deadening which occurs during drying of the adhesive on the flexible packaging material. Seal deadening occurs when acrylic emulsions containing crosslinkers are dried at temperatures higher than about 127° C. (about 260° F.). McCarthy et al does not teach anything having to do with seal deadening or non-self crosslinking acrylic emulsions. In fact, neither seal deadening nor crosslinking is ever mentioned in McCarthy et al. The only teaching of significance in this regard in McCarthy et al is that one may utilize "an acrylic resin emulsion or dispersion" together with synthetic or natural rubber latexes to make either a cold seal adhesive or an overprint varnish. There is simply no appreciation in McCarthy et al of the significance of crosslinker or of the problem relating to seal deadening. Thus, although McCarthy et al is relevant to patentability, it does not specifically teach or suggest to one skilled in the art the particular problem overcome by applicant's adhesive, as now claimed.

Next, the Examiner states that one of ordinary skill in the art would be well aware not to use acrylic emulsions to lessen the adhesive strength of the cold seal adhesive, and applicant never traverses the Examiner's position saying that such an analysis is well within the ordinary skill in the art. The Examiner, however, cannot use hindsight when making such a statement. Instead, the Examiner must point to some teaching or suggestion in McCarthy et al to support said position. The Examiner has not been able to

do so. Further, applicant refers the Examiner to column 2, lines 23-32 of McCarthy et al. At this location, McCarthy et al teaches that the proportions of latex and/or synthetic resin depend upon the commercial end use, which can vary from low pressure sealing which requires higher amounts of latex, and higher pressure sealing, which requires a lower proportion of latex. What this is teaching is that the cold seal adhesive of McCarthy et al may be utilized in different combinations depending upon the commercial end use. As such, there are many applications where the cold seal adhesive could be dried at temperatures below the critical temperature of 127° C. (260° F.). Thus, the problems to be solved by applicant would never be appreciated by one skilled in the art if that person skilled in the art would have a commercial end use which only requires drying at temperatures below 127° C. (260° F.). In other words, McCarthy et al's composition would perform successfully at such low temperatures and would not result in any seal deadening problem. Thus, at lower drying temperatures, one skilled in the art would clearly not appreciate the significance of using a non-crosslinking acrylic emulsion, and as a result, one skilled in the would not learn anything of significance relating to seal deadening problems from what is disclosed in McCarthy et al.

The Examiner can point to nothing in McCarthy et al which supports his position that one skilled in the art would be well aware not to use acrylic emulsions which self-crosslink at higher temperatures. This is because for some commercial end use applications, reduction in cohesive strength would not necessarily be a problem. For example, if one were to package a small plastic component, the problem of seal deadening may not be significant. However, when packaging food stuffs and/or sterile medical components, seal deadening does become an issue. Thus, unless a seal deadening issue arises, one skilled in the art would not necessarily be aware that non-self-crosslinking acrylics should be utilized, especially when crosslinking acrylics would in fact perform perfectly fine depending upon the application.

Finally, with respect to the Examiner's comments concerning the fact that McCarthy et al mentions drying of the cold seal adhesive, it should be noted that

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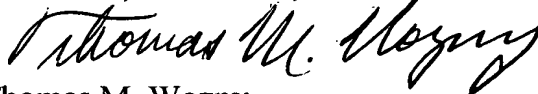
McCarthy et al merely teaches exactly what applicant discusses in its "Background" section of the application. For example, at column 1, lines 39-44, McCarthy et al merely states that the cold seal adhesive is applied by conventional means and dried by conventional means, e.g. in an oven. Thus, there is nothing that would teach one skilled in the art about the drying problems applicant is attempting to overcome. Although McCarthy et al teaches that the adhesive may be dried in an oven, McCarthy et al simply teaches nothing about the problems concerning seal deadening when heated at temperatures above the critical temperature of 127° C. (260° F.) which would initiate crosslinking in an acrylic emulsion with crosslinker contained therein. Again, although McCarthy et al teaches that cold seal adhesives are dried by conventional means, e.g. in an oven, it mentions nothing about the problems of drying above the critical temperature of 127° C. (260° F.). Thus, one skilled in the art would not appreciate or learn anything of significance relating to applicant's seal deadening problem from what is disclosed in McCarthy et al.

As a result of above, applicant believes it would not be obvious from McCarthy et al to utilize a non-self-crosslinking acrylic emulsion in a water based cold seal adhesive, as required by applicant's claims.

An effort has been made to place this application in condition for allowance and such action is earnestly requested.

Respectfully submitted,

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